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NO. [REDACTED]

363

IN THE  
**SUPREME COURT OF THE**  
**UNITED STATES OF AMERICA**

EDWARD HINES YELLOW PINE TRUSTEES,

Petitioners

vs.

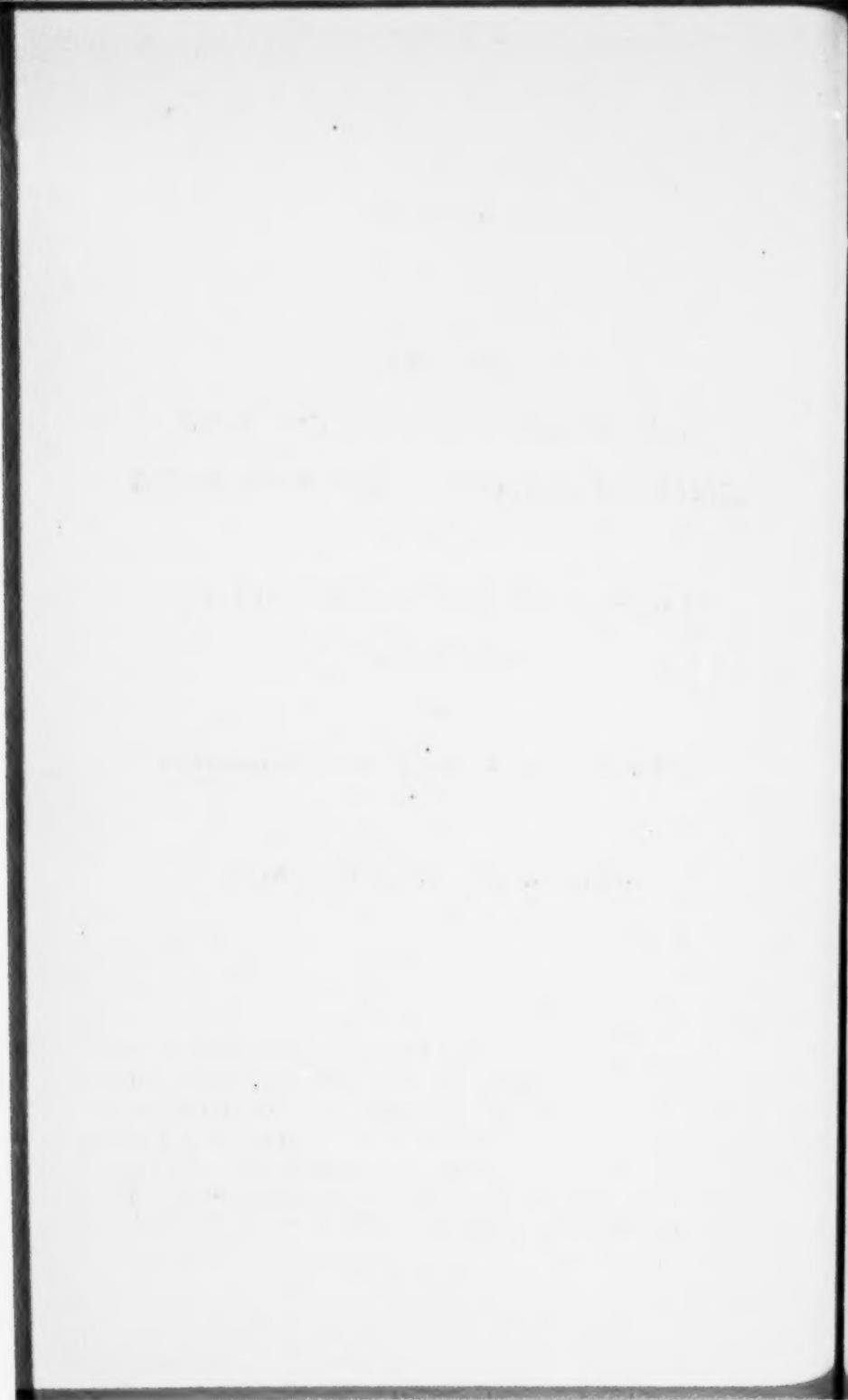
ANNA F. C. MARTIN ET ALS., Respondents

REPLY BRIEF OF PETITIONERS

T. W. DAVIS,  
T. J. WILLS,  
Attorneys for Petitioners.

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**REPLY BRIEF OF PETITIONERS**

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**MAY IT PLEASE THE COURT:**

In the statement of the facts by respondents in their brief they say that there is a wide difference in the statement of the facts by petitioners and the statement of the facts made by the Circuit Court of Appeals in stating the case. We do not think that there is any difference other than that the statement in the petition is fuller and more complete than the statement made by the Cir-

cuit Court of Appeals. The statements in the petition are true and correct statements of the facts as they appear in the record. The record bears out the statements made in the petition, and we think are justified.

The Circuit Court of Appeals refused to yield to the argument that the petitioners herein were entitled to be protected by the rule of property announced by the Circuit Court of Appeals in the case of Southern Pine Company vs . Hall, upon which petitioners relied in purchasing the lands in question. The Circuit Court of Appeals followed the state court in Hardy vs. Hartman, and overruled Southern Pine Company vs. Hall. This action of the Circuit Court of Appeals was taken after it had reviewed Hardy vs. Hartman and specifically refused to follow it in Southern Pine Company vs. Hall. It is to have this court review the decision of the Circuit Court of Appeals and state the law as to how far a rule of property arising under a decision of the United States courts may be relied on by subsequent purchasers, that this petition is presented.

#### RESPONSE TO POINT I

Point 1 urged by respondents in their brief is that the petition does not show any grounds justifying the issuance of the writ. The Circuit Court of Appeals in Southern Pine Company vs. Hall passed upon two points:

First, That the instrument in question was a bond and a bond conditioned for the performance of the obligations of the Pearl River Improvement & Navigation Company. This conclusion having been reached, the Court held that the patent was a valid and binding patent. The decision established the validity of the title resting on this patent as its source.

Second, that rights having vested under that patent by purchase prior to the decision of the Supreme Court of Mississippi, its rights would be protected in the United State Court.

This decision in the Hall case established a rule of property in the United States courts as to the patent under consideration by the first point decided. It also established the validity of the title held by Olivia B. Hall which had vested prior to the decision in the State court in Hardy vs. Hartman, by the second point decided.

It is a matter of peculiar gravity and general importance to the public to know whether or not the opinion of the United States courts, which fixes a rule of property, will be adhered to by the United States court, or whether at a subsequent presentation thereof, it will be receded from and the owners of property acquired under the authority of the decisions be deprived of their property by the change. We know of no question that could be of greater importance to the bar and to the laity of this government than to know just how far the decisions of the United States court and the rules of property fixed thereby may be relied upon.

#### RESPONSE TO POINT II

Respondents say in Point 2 of their brief that the application for a writ of certiorari is made too late. The Circuit Court of Appeals denied the petition for a rehearing on the 20th day of February, 1924. Reference to the certified record filed as a part of the petition in the case will show that this is true. The court said:

"The rule is that if a motion or a petition for rehearing is made, or presented in season, and entertained by the court, the time

limit for a writ of error or appeal does not begin to run until the motion or petition is disposed of."

Aspen Mining & Smelting Co. vs. Billings, 150 U. S. 36.

The petition for rehearing was overruled on February 20, 1924. The three months allowed by the Judicial Code in which to apply for a writ of certiorari would not expire until May 20th. The petition and application was timely filed.

### RESPONSE TO POINT III

Respondents in Point 3 contend that the decision of the Circuit Court of Appeals is correct, and for that reason should not be reviewed. Respondents do not reply to the argument of petitioners in support of the Petition for the writ of certiorari to review this case. Petitioners stated on P. 21 of their petition and brief that it is a well settled rule of law that federal courts follow the decision of the state court in the construction of a constitution or statute of the state, or the decision of the state court which has become a rule of property. We stated, however, in the original brief that there is an equally well settled rule of law that where a decision of the United States court has become a rule of property and property rights have vested because of a reliance upon the United States courts' decision, that no comity or respect for the state court will cause the United States Court to follow the decision of the state court and deprive a citizen of his property, that had vested under the authority and by reason of a reliance upon the rule of property announced by the United States court. This is the ground upon which petitioners rely in asking this court

to review the decision of the Circuit Court of Appeals and to reverse the same. Respondents have not replied to this argument, because, as we think, there is no answer to it.

We will not lengthen this brief by replying further to the argument of respondents in opposition to the petition. We submit that the petition should be granted and the writ issued, the cause reviewed and reversed.

T. W. DAVIS,  
T. J. WILLS,  
Attorneys for Petitioners.

I, T. J. Wilis, one of the attorneys for petitioners, certify that I have this day mailed a true and correct copy of the forgoing reply brief of petitioners to Hon. F. C. Hathorn, one of the attorneys for respondents, Hattiesburg, Mississippi.

This, the 30th day of April, 1924

T. W. DAVIS,  
T. J. WILLS,  
Attorneys for Petitioners.